impale or retrieve fish;

(B) [illegible]es a Hawaiian sling or pole spear which [illegible] shaft propelled by a single loop of elastic material that is not equipped with a mechanical release or trigger;

(51) "speargun" means a device designed to propel a spear through the water by means of elastic bands, compressed gas, or other mechanical propulsion to take fish that is equipped with a mechanical release or trigger. (In effect before 1983; am 4/3/83, Register 85; am 4/28/84, Register 90; am 6/30/84, Register 90; am 4/18/86, Register 98; am 6/2/88, Register 106; am 7/30/89, Register 111; am 6/5/94, Register 130; am 5/13/95, Register 134; am 2/25/98, Register 145; am 4/23/98, Register 146; am 5/19/2001, Register 158; am 3/13/2004, Register 169; am 2/10/2005, Register 173; am 5/26/2006, Register 178; am 9/12/2008, Register 187; am 3/14/2009, Register 189; am 6/10/2010, Register 194)

Authority: AS 16.05.251

Editor's note: As of Register 188 (January 2009), the regulations attorney made a technical revision under AS 44.62.125(b)(6), to the definition of "highway" in 5 AAC 75.995, to reflect the 2008 renumbering of former AS 19.45.001 by the revisor of statutes. The provisions of former AS 19.45.001 were relocated to AS 19.59.001.

Chapter 77

Personal Use Fishery.

Article

1. Statewide Provisions (5 AAC 77.001 — 5 AAC 77.035)
2. Arctic-Kotzebue Area (5 AAC 77.050 — 5 AAC 77.080)
3. Norton Sound-Port Clarence Area (5 AAC 77.100 — 5 AAC 77.130)
4. Yukon Area (5 AAC 77.150 — 5 AAC 77.190)
5. Kuskokwim Area (5 AAC 77.200 — 5 AAC 77.240)
6. Bristol Bay Area (5 AAC 77.250 — 5 AAC 77.285)
7. Aleutian Islands Area (5 AAC 77.300 — 5 AAC 77.318)
8. Alaska Peninsula Area (5 AAC 77.350 — 5 AAC 77.366)
9. Chignik Area (5 AAC 77.400 — 5 AAC 77.416)
10. Kodiak Area (5 AAC 77.450 — 5 AAC 77.468)
11. Cook Inlet Area (5 AAC 77.500 — 5 AAC 77.549)
12. Prince William Sound Area (5 AAC 77.550 — 5 AAC 77.591)
13. Yakutat Area (5 AAC 77.600 — 5 AAC 77.649)
14. Southeastern Alaska Area (5 AAC 77.650 — 5 AAC 77.699)

Article 1

Statewide Provisions.

Section

01. Intent and application of this chapter
02. Liability for violations
05. Personal use fishing permitted
27. Prohibitions for use of personal use-taken shellfish
35. Width of shell measurement [illegible]g and Tanner crab

5 AAC 77.001. Intent [illegible] application of this chapter. (a) The Board of Fisheries finds that

(1) before the enactment of the state's subsistence priority law in ch. 151, SLA 1978, an individual could fulfill that individual's personal use needs for fish under subsistence fishing regulations;

(2) the state's subsistence priority law changed the definition of subsistence in a manner that now precludes some individuals from participating in customary and traditional subsistence fisheries and efficiently harvesting fish for their personal use;

(3) there presently are areas of the state with harvestable surpluses of fish in excess of both spawning escapement needs and present levels of subsistence, commercial and sport uses; and

(4) it is necessary to establish a fishery classified as "personal use" because

(A) since the sale of fish is not appropriate or permissible, this fishery cannot be classified as commercial;

(B) since the use is not a customary and traditional use, this fishery cannot be classified as subsistence; and

(C) since the gear for this fishery is often different from that historically associated with sport fishing, this fishery should not be classified as a sport fishery, to prevent confusion among the public.

(b) It is the intent of the board that the taking of fish under 5 AAC 77 will be allowed when that taking does not jeopardize the sustained yield of a resource and either does not negatively impact an existing resource use or is in the broad public interest.

(c) Regulations in 5 AAC 77 apply to the taking of finfish, shellfish and aquatic plants for personal use. The regulations in 5 AAC 77.001 — 5 AAC 77.049 apply to the taking of finfish, shellfish and aquatic plants in all waters of Alaska.

(d) The regulations in 5 AAC 77 do not prohibit the personal use of finfish, shellfish or aquatic plants legally taken under the subsistence, commercial and sport fishing regulations in 5 AAC 01 — 5 AAC 75.

(e) The definitions of legal gear in 5 AAC 39.105(d), unlawful possession of fish in 5 AAC 39.197, definitions in 5 AAC 39.975, and abbreviations and symbols in 5 AAC 39.997 apply to the regulations in 5 AAC 77.

ADF&G Codified Language

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Editor's note: Before Register 169, April 2004, the substance of 5 AAC 77.002 appeared in 5 AAC 75.002.

5 AAC 77.005. Personal use fishing permitted. Finfish, shellfish, and aquatic plants may be taken for personal use only as provided in 5 AAC 77. (Eff. 6/20/82, Register 82)

Authority: AS 16.05.251(a)

5 AAC 77.007. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries. Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e). (Eff. 6/10/87, Register 102)

Authority: AS 16.05.251

5 AAC 77.010. Methods, means, and general restrictions. (a) Finfish, shellfish, and aquatic plants may be taken for personal use only by a holder of a valid resident Alaska sport fishing license or by an Alaskan resident exempt from licensing under AS 16.05.400.

(b) It is unlawful to buy, sell, trade or barter fish or their parts taken under the regulations in 5 AAC 77.

(c) It is unlawful to take fish within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(d) Each personal use fisherman shall plainly and legibly inscribe the fisherman's first initial, last name, and home address on a keg or buoy attached to a gillnet, pot, or ring net. A keg or buoy attached to a pot or ring net must also be inscribed with the name or the division of motor vehicles boat registration number, issued under 2 AAC 70, of the vessel used to operate the pot or ring net.

(e) The gillnet web in a gillnet used for personal use fishing for salmon must contain

(1) at least 30 filaments, each of which must be of equal diameter; or

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